

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-04-5982.M5

MDR Tracking Number: M5-04-0107-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 08-21-03.

The IRO reviewed massage therapy and office visits with manipulation rendered from 05-15-03 through 05-29-03 that was denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 12-12-03, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
9/29/02 through 10/3/02 (2 DOS)	99213-MP	\$96.00 (1 unit @ \$48.00 X 2 DOS)	\$0.00	D,F	\$48.00	Rule 133.307 (g)(3)(A-F)	The requestor did not submit relevant information to support delivery of service. No reimbursement recommended.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
2/11/03 through 8/4/03 (7 DOS)	99213-MP	\$336.00 (1 unit @ \$48.00 X 7 DOS)	\$0.00	No EOB	\$48.00 (DOS 2-11-03 through 4-23-03 6 DOS 96 MFG) \$42.51 DOS 8-4-03 (1 unit per Medicare Fee Schedule	Rule 133.307 (g)(3)(A-F)	The requestor submitted relevant information to support delivery of service for DOS 4-23-03. The requestor did not submit relevant information to support delivery of service for DOS 2-11-02, 2-25-02, 4-2-02, 4-3-02, 4-10-03 or 8-4-03. Reimbursement recommended in the amount of \$48.00
2-23-03 and 2-24-03 (2 DOS)	99213-MP	\$96.00 (1 unit @\$48.00 X 2 DOS)	\$0.00	Denied for invalid CPT code	\$48.00	Rule 133.307 (g)(3)(A-F)	The requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
9-29-02	97250-25	\$60.00 91 unit)	\$0.00	D	\$43.00	Rule 133.307 (g)(3)(A-F)	The requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
9-29-02	97265	\$86.00 (2 units)	\$0.00	D	\$43.00	Rule 133.307 (g)(3)(A-F)	The requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
9-29-02 and 10-3-02 (2 DOS)	97530-25	\$210.00 (3 units @ \$105.00 X 2 DOS)	\$0.00	D	\$35.00	Rule 133.307 (g)(3)(A-F)	The requestor did not submit relevant information to support delivery of service. No reimbursement recommended
2-23-03	97530-59	\$525.00	\$0.00	No	\$35.00	Rule 133.307	The requestor did not

through 4-24-03 (5 DOS)		(3 units @ \$105.00 X 5 DOS)		EOB DOS 2-25- 03, 4- 23-03 and 4-24-03. DOS 2-23-03 & 2-24-03 denied for invalid code		(g)(3)(A-F)	submit relevant information to support delivery of service for DOS 2-23-03 through 2- 25-03. The requestor did not submit relevant information to support delivery of service for DOS 4-23-03 and 4-24-03. Reimbursement recommended in the amount of \$35.00 X 3 units X 2 DOS = \$210.00.
-------------------------------	--	------------------------------------	--	---------------------------------------------------------------------------------------------------------------------------------	--	-------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
10-3-02 and 2-11-03 (2 DOS)	97032	\$44.00 (1 unit @ \$22.00 X 2 DOS)	\$0.00	No EOB DOS 2-11-03 DOS 10-3-02 denied code D	\$22.00	Rule 133.307 (g)(3)(A-F)	The requestor did not submit relevant information to support delivery of service. No reimbursement recommended
10-3-02 through 8-4-03 (12 DOS)	97124	\$990.00 (4 units @ \$120.00 X 2 DOS 2-24-03 and 2-25-03, 3 units @ \$90.00 X 5 DOS 2-11-03, 2-23-03, 4-10-03, 5-29-03 and 8-4-03, 2 units	\$0.00	D denial DOS 10-3-02, No EOB DOS 2-11-03, 2-25-03, 4-2-03, 4-3-03, 4-10-03, 4-10-03, 4-23-03, 4-24-03, 5-29-03 and 8-4-03	\$28.00 (DOS 10-3- 02 throug h 5-29- 03 11 DOS 96 MFG) \$81.41 for DOS 8-4-03 (3 units per Medi- care Fee Schedul e)	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service for DOS 4-23-03, 4-24-03 and 5-29-03. Requestor did not submit relevant information to support delivery of service for DOS 10-3-02, 2-11-03, 2-23-03 through 2-25-03, 4-2-03, 4-3-03, 4-10-03 and 8-4-03. Reimbursement recommended in the amount of \$28.00 X 7 units (DOS 4-23-03 and 4-24-03 2 units each DOS and DOS 5-29-03 3 units) = \$196.00

		@ \$60.00 X 5 DOS)					
10-3-02 through 4-2-03 (3 DOS)	97035	\$66.00 (\$22.00 1 unit X 3 DOS)	\$0.00	D denial DOS 10-3-02 No EOB DOS 2-11-03 and 4-2-03	\$22.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
2-12-03	97750	\$500.00	\$0.00	Denial states procedure code or NDC (National Drug Code) not valid for DOS.	\$500.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
2-23-03 through 4-3-03 (4 DOS)	97110-59	\$473.00 (\$129.00 X 3 DOS 2-23-03 through 2-25-03, \$86.00 X 1 DOS 4- 3-03)	\$0.00	DOS 2-23 and 2-24-03 denied for invalid procedure code. No EOB DOS 2-25-03 and 4-3-03	\$35.00	Rule 133.307 (g)(3)(A-F)	See rationale below. No reimbursement recommended.
3-9-03	IC-E0230	\$50.00	\$0.00	Denied for invalid procedure code	\$50.00	96 MFG DME GR VIII	Requestor did not submit relevant information to support delivery of service. No reimbursement

				billed.			recommended.
8-4-03	99214	\$95.00 (1 unit)	\$0.00	No EOB	\$69.68 (per Medicare Fee Schedule)	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
TOTAL		\$3,627.00	\$0.00				The requestor is entitled to reimbursement in the amount of \$454.00

RATIONALE: Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one". Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division (MRD) has reviewed the matters in light of the Commission requirements for proper documentation.

The MRD declines to order payment for code 97110 because the daily notes did not clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision and Order is applicable for dates of service 09-29-02 through 08-04-03 in this dispute.

This Findings and Decision and Order are hereby issued this 14th day of April 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division
DLH/dlh

April 9, 2004

Rosalinda Lopez
Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

REVISED REPORT **Corrected dates in dispute.**

Re: Medical Dispute Resolution
MDR #: M5-04-0107-01
IRO Certificate No.: IRO 5055

Dear Ms. Lopez:

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine who is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Clinical History:

This 56-year-old female claimant experienced pain over the left shoulder and right wrist region following an on-the-job accident on ___. The record does show that the patient is an insulin-dependent diabetic, has a clotting disorder, and is allergic to NSAID's. Thus, NSAID's were not utilized in her treatment.

An initial course of conservative management was applied that included chiropractic therapy, physical therapy modalities, and passive therapeutics. The records provided for review do not indicate the starting date of initial chiropractic applications.

MR imaging of the left shoulder on 10/24/02 revealed very mild tendonitis. A Designated Doctor Evaluation (DDE) on 12/27/02 did not place the patient at Maximum Medical Improvement (MMI). A medical doctor applied a course of therapeutic steroidal injections on 01/06/03, and recommended physical therapy applications.

The patient underwent a left shoulder arthroscopic subacromial decompression and manipulation under anesthesia (MUA) on 04/08/03. The surgical applications were not provided for review. She returned to work on 05/01/03. Left subacromial injections were performed on 05/15/03, 05/28/03, and 06/26/03. The medical doctor advised physical therapy applications to occur in tandem with the course of therapeutic injections for the greatest benefit to the patient.

Disputed Services:

Office visits with manipulations (99213-MP) and massage (97124) during the period of 05/15/03 through 05/29/03.

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the services in dispute as stated above were medically necessary in this case.

Rationale:

It is evident that the patient was not at MMI when the provided applied services from 05/15/03 through 05/29/03 were rendered. The patient did not fit within a strain/sprain treatment model due to the mechanism of injury provided. In the course of treatment, it was noted that the patient was an insulin-dependent diabetic, had a clotting disorder, and was allergic to NSAID's, a complication that would alter the duration and course of any therapies applied.

A DDE on 12/27/02 found the patient not to be at MMI; and, a referral for proposed invasive applications was made to a medical doctor. A steroidal injection series was initiated, and physical therapy applications were advised to occur in tandem

The provider's use of passive applications that include manipulation and massage is appropriate in this case. The patient needed to undergo therapeutic movement/ mobilization after the application of injections so that AROM (active range of motion) gains could be realized

The aforementioned information has been taken from the following guidelines of clinical practice and/or peer-reviewed references:

Clinical Practice Guidelines for Chronic Non-Malignant Pain Syndrome Patients II: An Evidenced-Based Approach. J. Back Musculoskeletal Rehabil., 1999, Jan 1, 13:47-58.

Ellman H. Arthroscopic Subacromial Decompression: Analysis of One-to_Three-Year Results. Arthroscopy, 1987; 3(3):173-81.

Hoving, J.L., et al. *Manual Therapy, Physical Therapy, or Continued Care by a General Practitioner for Patients with Neck Pain. A Randomized Controlled Trial.* Ann. Intern. Med., 2002 May 21; 136(10):713-22.

Massoud, S.N., et al *Operative Management of the Frozen Shoulder in Patients with Diabetes.* J. Shoulder-Elbow Surg., 2002 Nov-Dec;11(6):609-13.

Sincerely,